

## **EXHIBIT 8**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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:  
ROBERT SAMPSON, :  
: 22-CV-4490 (JMA) (AYS)  
Plaintiff, :  
: May 3, 2023  
:  
v. : Central Islip, NY  
:  
STONY BROOK UNIVERSITY, :  
et al., :  
Defendant. :  
-----X

TRANSCRIPT OF CIVIL CAUSE FOR STATUS CONFERENCE  
BEFORE THE HONORABLE JOAN M. AZRACK  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiff: MARY VARGAS, ESQ.  
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For the Defendant: HELENA LYNCH, ESQ.  
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1                   THE CLERK: Case 22-CV-4490, Sampson v.  
2 Stony Brook University. Counsel, state your  
3 appearances please and then the judge will call in.

4                   MS. VARGAS: Good morning. This is Mary  
5 Vargas and Chuck Weiner for the plaintiff, Mr. Sampson.

6                   MS. LYNCH: This is Helena Lynch with the  
7 Attorney General's Office for defendants.

8                   THE CLERK: The judge will call in, in a  
9 moment.

10                  THE COURT: Good morning, this is Judge  
11 Azrack. We have Ms. Vargas?

12                  MS. VARGAS: Good morning, your Honor.

13                  THE COURT: And Ms. Lynch?

14                  MS. LYNCH: Yes, good morning, your Honor.

15                  THE COURT: Okay, good morning. Obviously,  
16 I'm sure you've all read the Circuit's decision in the  
17 NBME case. And as I'm sure you're aware, the Circuit's  
18 decision turned largely on the status of this case. I  
19 wanted this conference because I was hoping that we  
20 could reach a goal of the irreparable harm issue that  
21 was identified by the Circuit in the opinion.

22                  First, I want to go back to the status  
23 conference when we spoke on December 9<sup>th</sup>. At that time,  
24 Ms. Vargas represented that you had reached a  
25 provisional agreement that would, among other things,

1 have permitted Mr. Sampson to take the step one exam on  
2 May 15<sup>th</sup> and assuming he passed it, giving him until  
3 August, '24, 2024 to graduate. But the in your letter  
4 yesterday, Stony Brook says it's only agreeing to  
5 maintain the status quo and keep Mr. Sampson enrolled  
6 pending the results of the step one exam should he  
7 proceed with the exam. So with that backdrop, I wanted  
8 to discuss two issues with regard to this new position.

9                 First, I don't think that this is sufficient  
10 to address the Circuit's irreparable harm analysis.  
11 I'm not going to repeat the decision. You've read it,  
12 I'm sure you've studied it. I'm not going to belabor  
13 this point. But it seems to me the Circuit concluded  
14 that Sampson hadn't demonstrated irreparable harm  
15 because regardless of the outcome of the NBME case, he  
16 couldn't continue with medical school unless he  
17 prevailed in the Stony Brook case. So I don't see any  
18 reason for Stony Brook's sudden reversal.

19                 Subject to your agreement to the proposal  
20 I'm going to make, which I'm going to outline in a  
21 minute, I plan to reissue the preliminary injunction in  
22 the NBME case once NBME and Sampson have had an  
23 opportunity to be heard. I think this path will both  
24 serve Stony Brook's interest in finality and also  
25 address the irreparable harm issue, allowing the

1 Sampson case against NBME to proceed to a merits  
2 determination.

3 So my proposal is that you agree to the same  
4 provisional terms that you outlined in December, namely  
5 that Mr. Sampson will remain a student in good standing  
6 through August, 2024 and that he'll be permitted to  
7 proceed with his clinical studies once he passes step  
8 one. If he's unable to complete his medical  
9 requirements within that time, he'll be subject to  
10 dismissal. So that's my proposal, so I'm listening.

11 MS. VARGAS: Your Honor, this is --

12 MS. LYNCH: Pardon me, this is Helena Lynch,  
13 your Honor. May I speak?

14 THE COURT: Yes.

15 MS. LYNCH: With respect to the letter  
16 Monday, that was just our position as of now. We are  
17 very much willing to go ahead with the settlement as it  
18 was presented in December and as we understood it to  
19 be. But when I -- when I sent a draft to Mr. Sampson's  
20 counsel, they returned a different agreement to me,  
21 which was a consent decree, which we think is entirely  
22 inappropriate, and terms that I understood to be a  
23 little bit more open-ended than didn't really lock in  
24 the finality of the August 12<sup>th</sup>, 2024 date. So the  
25 bottom line is, we are still very much willing --

1                   THE COURT: Okay.

2                   MS. LYNCH: -- to give Mr. Sampson until  
3 August, 2024.

4                   THE COURT: Yeah. I totally --

5                   MS. VARGAS: Your Honor --

6                   THE COURT: Wait, let me just say this. I  
7 am totally on board with that and I think the August,  
8 2024 date is generous, and I don't think Mr. Sampson  
9 should ask for more.

10                  But, Ms. Vargas, go ahead.

11                  MS. VARGAS: Your Honor, there is nobody who  
12 wants finality and completion of his medical degree  
13 more than Mr. Sampson. He is two weeks away from  
14 taking step one. He has used his dedicated study  
15 period and wants to proceed with accommodations. The  
16 reason he absolutely welcomes the opportunity to have  
17 until August 12, 2024 to finish. Although he believes  
18 that the seven-year policy does not apply as a joint-  
19 degree student, nevertheless, he wants to finish by  
20 August 12<sup>th</sup>, 2024.

21                  The reason that Mr. Sampson cannot sign an  
22 agreement that says that is because as of this moment,  
23 he has no court-ordered ability to take the test with  
24 accommodations, and we now understand that Stony Brook  
25 has changed its policies about step two, the next part

1 of the test, and requires him to take step two pretty  
2 soon after taking step one. Therefore, we could not  
3 advise Mr. Sampson to sign a settlement agreement that  
4 says he will finish by August 12<sup>th</sup>, 2024 in the absence  
5 of having access to the accommodations to actually do  
6 so.

7 THE COURT: Well, the only way he's going to  
8 get the accommodations to do so is if we proceed with  
9 my plan.

10 MS. VARGAS: We are on board with your plan  
11 and we understood from our conversations with Ms. Lynch  
12 that she was willing to stipulate -- (ui) to your plan,  
13 that she willing to stipulate that Mr. Sampson would  
14 have until August 12<sup>th</sup>, 2024 to complete his medical  
15 degree, and we agree with that.

16 THE COURT: Then that's it, that's the  
17 agreement, so let's put it on the record right now,  
18 because then I'm going to schedule a conference  
19 tomorrow morning with NBME and you, Ms. Vargas, so we  
20 can move that ball.

21 MS. VARGAS: Thank you, your Honor.

22 THE COURT: Because May 15<sup>th</sup> is soon upon us.  
23 So can you either put this on the record right now or  
24 get me something in the next hour?

25 MS. LYNCH: Your Honor, I just need to

1 clarify one thing, only because it was discussed in  
2 December. I was basically overruled on the fee issue  
3 so we -- at one point, we discussed agreeing to  
4 disagree and setting aside the fee issue and not  
5 include it here.

6 THE COURT: Yes.

7 MS. LYNCH: But I was overruled so we have  
8 to have a no-fee provision in the stipulation.

9 MS. VARGAS: Our understanding was that the  
10 agreement we had -- this is Mary Vargas -- we had  
11 discussed in --

12 THE COURT: I know.

13 MS. VARGAS: -- December, 2022 was that the  
14 parties would agree to Mr. Sampson completing (ui) 2024  
15 and we would brief to the Court the issue of attorneys'  
16 fees.

17 MS. LYNCH: Yes, and I agree with that,  
18 except I've been overruled on that and we have to --  
19 especially at this juncture, we are holding fast that  
20 it has to be a no-fee agreement.

21 THE COURT: Look, I think what's important  
22 here is that this young man get to take this exam on  
23 May 15<sup>th</sup>, for which he's worked for years and now has  
24 studied. So figure out this fee situation because that  
25 would be horrendous for that to get in the way of the

1 plan I'm proposing.

2 MS. LYNCH: Understood, your Honor.

3 THE COURT: I would suggest you leave it up  
4 to me, Ms. Lynch. You tell your client to leave it up  
5 to the judge. Put it on the back burner and leave it  
6 up to the judge.

7 MS. LYNCH: Okay.

8 THE COURT: Time is of the essence.

9 MS. LYNCH: Okay. I'll revisit that. I was  
10 overruled on that but I will revisit it with an appeal  
11 to the urgency of the situation.

12 THE COURT: I mean, we need to know like in  
13 the next two hours.

14 MS. LYNCH: Okay.

15 THE COURT: Yeah. I mean, look, you know,  
16 it's up to me -- you know, it's left up to me as to  
17 whether Sampson is prevailing under this settlement, so  
18 the settlement can say no fees and it be left up to me.

19 MS. LYNCH: Okay. I'm going to -- I'm going  
20 to take this to my superiors and to my client, and we  
21 will figure it out.

22 THE COURT: I mean, yeah, because it will be  
23 -- it will be a determination I make as to whether he's  
24 prevailing or not, but we need to get this done in the  
25 next -- by 11:30.

1                   MS. LYNCH: Okay. I will do my best.

2                   THE COURT: So let's talk at 11:30.

3                   MS. LYNCH: Okay.

4                   THE COURT: Actually, let's talk at 11:15.

5 It's only 10 -- you've got an hour, and that's my view.

6 I think the settlement should say no fees and then you

7 litigate before me whether he's a prevailing party.

8 That's what I think. Ms. Vargas, Ms. Lynch, that's my

9 take on it.

10                  MS. VARGAS: Thank you, your Honor.

11                  THE COURT: Just say no fees, it should be

12 what I set out, and we should put it on the record at

13 11:15. So let's talk again at 11:15. The settlement

14 should say no fees. All right, let's do it. At 11:15,

15 I'll talk to you.

16                  MS. VARGAS: Thank you very much, your

17 Honor.

18                  MS. LYNCH: Your Honor, should we call in at

19 the same number?

20                  THE COURT: Yes, same thing, thank you.

21                  MS. LYNCH: Okay, thank you.

22                  (Second call.)

23                  THE CLERK: Recalling 22-CV-4490, Sampson v.

24 Stony Brook. Counsel, state your appearances, please.

25                  MS. VARGAS: Good morning. My name is Mary

1 Vargas for the plaintiff, Mr. Sampson, along with my  
2 co-counsel, Charles Weiner.

3 MS. LYNCH: Helena Lynch here with the  
4 Attorney General's Office for defendants.

5 THE COURT: Okay, let's revisit where we  
6 were. Are we ready to read a stipulation into the  
7 record?

8 MS. VARGAS: Good morning, your Honor. This  
9 is Mary Vargas. We have proposed a four-part  
10 stipulation. The Attorney General's Office has agreed  
11 to three of those parts and is awaiting confirmation on  
12 one of those parts.

13 THE COURT: Okay.

14 MS. VARGAS: So I'm happy to read that and  
15 explain the one point that we need that they are still  
16 confirming.

17 THE COURT: Okay. Is that okay with you,  
18 Ms. Lynch?

19 MS. LYNCH: Yes, as long as it's clear that  
20 I'm not able to stipulate to number three at this  
21 juncture.

22 THE COURT: Okay, so let me hear it.

23 MS. VARGAS: Number one: Stony Brook  
24 University will permit Mr. Sampson until August 12<sup>th</sup>,  
25 2024 to complete his medical education.

1                   Number two: Mr. Sampson cannot proceed to  
2 phase three of his medical education until he takes and  
3 passes step one.

4                   Number three, and this is the part the  
5 Attorney General's Office does not yet have agreement  
6 on: Mr. Sampson will take step two by October 15<sup>th</sup>,  
7 2023.

8                   And number four: This stipulation does not  
9 include fees. The Court will decide prevailing party  
10 status and the award of fees and costs if any.

11                  THE COURT: Okay, so it's number three that  
12 we're waiting on, Ms. Vargas?

13                  MS. VARGAS: Yes, and the reason that's  
14 critical to us is, we understand that Stony Brook  
15 University now required step two to be taken earlier  
16 than it used to be. So Mr. Sampson may immanently need  
17 accommodations for step two pretty soon after he takes  
18 step one. We identified October 15<sup>th</sup>, 2023 as the  
19 deadline for that because that is the deadline that  
20 would allow him to complete his medical education  
21 consistent with the rest of the stipulation. But this  
22 is something new that there's not been a lot of  
23 discussion about between the parties, so that's why Ms.  
24 Lynch obviously has not had much time to discuss this  
25 with her clients.

1 MS. LYNCH: I've had no time.

2 MS. VARGAS: Correct.

3 MS. LYNCH: I don't read the policy that  
4 way. I'm obviously trying to rush to figure it out but  
5 I don't read it that way. Also, in our view, there's  
6 no need to make a factual record for a future P.I.  
7 When the P.I. application happens for step two, the  
8 factual record can be included in the P.I. motion. It  
9 doesn't need to be here.

10 MS. VARGAS: Your Honor, our view is that  
11 the Second Circuit has made clear what it needs on  
12 immanent harm. And assuming that Mr. Sampson has the  
13 opportunity to take step one with the accommodations he  
14 needs, he will then almost immediately be in the same  
15 jeopardy with regard to step two, and we need to have  
16 the record established clearly when he needs to take  
17 that test by.

18 THE COURT: Which is October of this year.

19 MS. VARGAS: I'm sorry, yes. We believe  
20 it's October 15<sup>th</sup>, 2023 in order for him to have  
21 sufficient time for him to complete his clinicals.

22 THE COURT: So I guess my -- so what are you  
23 waiting on, Ms. Lynch?

24 MS. LYNCH: I'm waiting to find out if  
25 that's correct because I don't see it. I'm waiting to

1 hear from the academic advisor at the medical school  
2 because I'm reading the policies and procedures, and it  
3 doesn't look that way to me, but I'm not the person --

4 THE COURT: Why do you need it, Ms. Vargas?

5 MS. VARGAS: Mr. Sampson will need to take  
6 step two, from our reading of Stony Brook's policies,  
7 pretty soon after he takes step one. The preliminary  
8 injunction that was pending against the NBME only  
9 involved step one. If we're correct on what Stony  
10 Brook's policies are in regard to step two, as soon as  
11 Mr. Sampson takes step one, he will now be in immanent  
12 need of an injunction in regard to step two. So for  
13 the same reason we need a deadline for the preliminary  
14 injunction for immanent harm for step one, we will need  
15 it for step two as well.

16 MS. LYNCH: Your Honor, may I respond?

17 THE COURT: Yes.

18 MS. LYNCH: I believe that that's just  
19 completely outside the scope of -- well, of this  
20 litigation, of this P.I. motion as well as the NBME  
21 P.I. motion and what the Second Circuit addressed. So  
22 if Mr. Sampson needs to make a factual record of a  
23 second P.I. motion, then we can figure out what the  
24 correct fact is and then -- I just think it's outside  
25 the scope --

1                   THE COURT: I agree.

2                   MS. LYNCH: -- of what we're dealing with  
3 here.

4                   THE COURT: I agree, I agree, I agree.

5                   MS. LYNCH: Okay.

6                   THE COURT: I think you need to quit while  
7 you're ahead, Ms. Vargas.

8                   MS. VARGAS: Thank you, your Honor.

9                   THE COURT: So I think it should be one,  
10 two, and what was four? Four was fees if any -- I  
11 mean, I think it should be no fees because I think that  
12 the case against Stony Brook is not as strong a case as  
13 the case against the medical board. I think it should  
14 just be no fees. I think this is a huge -- you know,  
15 this is a huge victory just to get this, if we can --  
16 if this works.

17                  MS. VARGAS: This is a medical student with  
18 six figures in legal fees, your Honor.

19                  THE COURT: I know. I know that. I  
20 recognize that.

21                  MS. LYNCH: Your Honor, we very much agree  
22 with you.

23                  THE COURT: All right, I think we should go  
24 -- read me four again.

25                  MS. VARGAS: This stipulation does not

1 include fees. The Court will decide prevailing party  
2 status and the award of fees and costs if any.

3 THE COURT: Well, it's not as if anybody --  
4 I'm not agreeing, the school isn't agreeing to  
5 prevailing party. It's just going to be in my lap.  
6 All right. I can't -- I mean, I can't -- I think one  
7 and two are easy. I think three is out. And I think  
8 four is dubious, but I don't want this to crater over  
9 four.

10 MS. LYNCH: Your Honor, the stipulation --  
11 the revised stipulation that I circulated a little  
12 while ago omits the prevailing party provision, so that  
13 would leave that open. So if we only included the  
14 first sentence, this stipulation does not include fees,  
15 the remainder isn't foreclosed by the stipulation.

16 THE COURT: Yes, good point.

17 MS. LYNCH: So we don't need --

18 THE COURT: That's a good point. That's a  
19 good point. That's actually an excellent point.  
20 That's how it should read. Okay, read it to me -- read  
21 it to me one more time.

22 MS. VARGAS: This stipulation does not  
23 include fees is my understanding of what Ms. Lynch is  
24 suggesting, and we won't object to that.

25 THE COURT: Okay, so let's go with one, two,

1 and four.

2 MS. VARGAS: Thank you, your Honor.

3 THE COURT: Can you -- what I would like you  
4 to do is, read one, two, and four into the record so I  
5 can basically have Ms. Lynch so stipulate. And then  
6 I'd like you to put that stipulation on the record --  
7 file that stipulation on the record immediately after  
8 this conference.

9 MS. VARGAS: Yes, your Honor. Number one --

10 THE COURT: So if you want to read number  
11 one, go ahead.

12 MS. VARGAS: Number one: Stony Brook  
13 University will permit Mr. Sampson until August 12<sup>th</sup>,  
14 2024 to complete his medical education.

15 Number two: Mr. Sampson cannot proceed to  
16 phase three of his medical education until he takes and  
17 passes step one.

18 And number four: This stipulation does not  
19 include fees.

20 THE COURT: Agreed, Ms. Lynch?

21 MS. LYNCH: Yes, your Honor.

22 THE COURT: Okay. Agreed, Ms. Vargas?

23 MS. VARGAS: Yes, your Honor.

24 THE COURT: Okay. Please file that  
25 stipulation on the record in the next hour.

1 MS. VARGAS: Your Honor, should that be  
2 filed as part of a letter or a proposed order?

3 THE COURT: I guess it could be a proposed  
4 order.

5 MS. VARGAS: Okay.

6 THE COURT: All right?

7 MS. VARGAS: Thank you.

8 THE COURT: Okay, all right, thank you.

9 Thank you all very much.

10 MS. LYNCH: Thank you, your Honor.

11 MS. VARGAS: Thank you.

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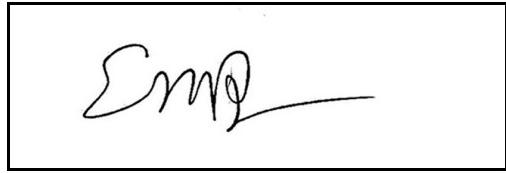
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I certify that the foregoing is a correct  
transcript from the electronic sound recording of the  
proceedings in the above-entitled matter.

A rectangular box containing a handwritten signature in black ink. The signature appears to read "EMP" followed by a cursive surname.

ELIZABETH BARRON

June 8, 2023